

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILFREDO EARL L. DE LEON, III.,

Plaintiff(s),

v.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEM, INC., et al.,

Defendant(s).

No. C 09-0607 PJH

**ORDER OF DISMISSAL FOR
FAILURE TO PROSECUTE**

Plaintiff having failed to file a case management statement and appear at the May 21, 2009 case management conference, the court issued an Order to Show Cause ("OSC") why the case should not be dismissed for failure to prosecute and for failure to comply with orders of the court. The OSC also warned plaintiff that a further failure to appear would result in a dismissal. Plaintiff did not appear at the OSC hearing as ordered on June 11, 2009.

Accordingly, the court having considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987), and having determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order(s), the court finds there is no appropriate less drastic sanction. Accordingly, this action is dismissed pursuant to Fed. R. Civ. pro. 41(b) for plaintiff's failure to prosecute.

SO ORDERED.

Dated: June 12, 2009


PHYLLIS J. HAMILTON
United States District Judge